IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

C-24 01 OF 2006

Monika Rawat,
W/o Sqr. Ldr. M.S. Rawat,
C/o Mrs. M. Negi,
R/o 123 Russian Consultant Quarters,
Sector- V-A BHEL Ranipur, Haridwar. .....Petitioner.

Versus

Manmohan Singh Rawat,
S/o Sri Yeshpal Singh Rawat,
R/o Village Ghandiyal,
Patt Easter Maniyarsyuon, P.O. Naithana,
Tehsil Pauri, Pauri Garhwal. .....Respondents.

Mr. Pankaj Miglani, Advocate for the petitioner.

Dated: 04.042006

Hon'ble Rajesh Tandon, J.

By the present transfer application, the petitioner has prayed for transferring the proceedings of Matrimonial Case No. 47 of 2005 titled as Manmohan Singh Rawat Vs. Monika pending before Family Court, Pauri to Family Court, Haridwar.

While filing the transfer application this Court has issued notice to the respondents for appearance on 8th March, 2006. The office has reported that the service has been deemed sufficient.

Further on 8th March, 2006 parties were directed to appear before the Court on 3rd April, 2006 and notice in

pursuance of this order was also issued on 10th March, 2006 but on 3rd April, 2006, except the applicant none appeared on behalf of the respondents.

On 3rd April, 2006, the matter was postponed for 4th April, 206 on the ground that in case any appearance has been filed in the office, the same shall be shown in the caused list, but none appeared on behalf of the respondents.

A supplementary affidavit filed on behalf of the applicant, the same is taken on the record.

According to the case of the petitioner, both the parties have married on 13th April, 2001 in accordance with the Hindu Rites and ceremonies and out of the wedlock, a female child ws born. However, a petition under Section 13 of the Hindu Marriage Act was filed by the respondents at Pauri Garhwal, which is Case No. 47 of 2005 (Annexure No. 2 to the transfer application). The ground for transfer is that the applicant is residing at Haridwar and it is very difficult for the applicant to come Pauri on each and every date in order to attend the Matrimonial Case No. 47 of 2005. She is to incur travelling expenses.

In the supplementary affidavit, it has been brought to the notice of the Court that the applicant has also got an FIR lodged against the respondents and the investigation in that criminal case bearing Case Crime No. 330 of 2005 under Section 498-A/323/506 of IPC is still pending at Haridwar. Further an application under Section 125 of the Code of Criminal Procedure has also been filed by the applicant on behalf of her minor daughter with regard to the grant of maintenance of her daughter. The said case is registered as Case No. 2 of 2006 titled as Smt. Monika Rawat and another Vs. Manmohan Singh Rawat Pending before the Family Judge, Haridwar.

In view of the aforesaid facts and circumstances, it will be feasible for both the parties to contest the divorce case at Haridwar.

I direct that proceedings in Matrimonial Case No. 47 of 2005 Manmohan Singh Vs. Smt. Monika Rawat pending before the Family Court, Pauri shall be transferred to Haridwar and the same shall be proceeded after giving an opportunity to the respondents to contest the case at Haridwar.

Transfer application is allowed. No order as to costs.

(Rajesh Tandon, J.)

04.04.2006

Rathour